IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(C).No. 10894 of 2007(V)

PETITIONER:

VELAPPAN @ K.M.VELAPPAN KUTTY,
S/O.LATE MADHAVAN, KALATHIL HOUSE,
MUTTIKULANGARA POST, PALAKKAD.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P
SRI.M.N.SAJEER

RESPONDENTS:
----

1. STATE OF KERALA,
REP. BY THE CHIEF SECRETARY,
TRIVANDRUM.

2. THE CUSTODIAN OF VESTED FORESTS
OLAVAKKODE, PALAKKAD.

3. THE CONSERVATOR OF FORESTS,
OLAVAKKODE, PALAKKAD.

BY GOVERNMENT PLEADER SRI.BENJAMIN PAUL
SPL. GOVERNMENT PLEADER SRI.RENJITH THAMPAN FOR R2 AND R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.10894/07

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE ORDER DATED 13/12/1977 PASSED IN OA NO.1194/1974 ON THE FILE OF FOREST TRIBUNAL, PALAKKAD.

EXT.P2: TRUE COPY OF THE JUDGMENT DATED 28/6/1984 PASSED IN MFA NO.217/1978 ON THE FILE OF THIS HON'BLE COURT.

EXT.P3: TRUE COPY OF THE COMMUNICATION DATED 24/8/05 SENT TO THE PETITIONER FROM THE COLLECTORATE, PALAKKAD.

EXT.P4: TRUE COPY OF THE LETTER DATED 13.9.06 RECEIVED BY THE PETITIONER FROM THE OFFICE OF THE HON'BLE MINISTER FOR FOREST.

EXT.P5: TRUE COPY OF THE LETTER DATED 21.5.07 SENT BY THE RESPONDENT NO.3 TO THE PETITIONER.

EXHIBITS OF R3

ANNEXURE R3(a) SERIES: TRUE COPY OF PHOTOGRAPHS OF THE LAND OF THE PETITIONER.

//TRUE COPY//

ANTONY DOMINIC, J.
==========
W.P.(C) NO. 10894 OF 2007
==========

Dated this the 18th day of September, 2007

J U D G M E N T

The land belonging to the petitioner was exempted from the purview of the Kerala Private Forest (Vesting and Assignment) Act, 1971 and the order in this behalf passed by the Tribunal, is Ext.P1. Respondents therein filed an appeal before this court as MFA 217/78 which was dismissed as per Ext.P2 judgment dated 28th of June 1984. Inspite of the lapse of more than 20 years, the land was not restored. Accordingly, petitioner made representation, which was replied by Ext.P3, informing him that though there is no impediment in restoring the land, formal orders of the Government are awaited. Even thereafter since there was no progress, this writ petition was filed by the petitioner for directing the respondents to restore the property covered by

Exhibits P1 and P2. Now a statement has been filed wherein, the only contention raised is that there is a proposal to issue a notification under Section 3 of the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act 2003 and that the proposal is forwarded to the Chief Conservator of Forests. The fact that there is a proposal pending with the Forest Department for issuing the notification as stated by the respondents, is no justification in their failure to implement Exhibits P1 and P2 judgment. Even if the land is restored, if the circumstances so warrant, the respondents are still free to issue a notification at any point of time. Therefore the proposal cannot be a justification for the delay. There is no other reasons for delaying restoration of the land.

Accordingly, I dispose of this writ petition directing the respondents to restore the land covered by Exhibits P1 and

P2, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this judgment.

ANTONY DOMINIC, JUDGE.

Rp